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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,416	02/26/2004	Baychar	BAY-510	2813

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EXAMINER

GOFMAN, ANNA

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 04/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/786,416

Applicant(s)

BAYCHAR,

Examiner

Anna Gofman

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____
- Paper No(s)/Mail Date 2/26/04, 5/17/04, 9/01/05, 10/13/05

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, 8, 10-11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nebeker (US 5,566,395) in view of Ogden (US 5,727,336).

Nebeker teaches a liner for a hat comprising a foamed core having a first surface and a second surface. The foamed core may be of an opened-cell or closed-cell polymer (col.1 lines 41-50). The second layer may be a selected wick that draws moisture away from other parts of the liner. It can be made from natural or synthetic materials and a woven or a nonwoven fabric. The first layer may include a plurality of spacing layers (col.2 lines 6-26). The second layer would necessarily be breathable and hydrophilic. Examiner interprets that said spacing layers meet the limitation of claim 1, requiring a "thermal insulating layer". To protect the hat, there should be an impermeable liquid material layer attached to the second layer (col.4 lines 12-15 and Figure 4A). The material can be laminated (col.3 lines 5-6) or stitched with thread (col.5 lines 4-6). Stitching the material necessarily meets the limitation of claim 4, requiring that the layers are attached by mechanical bonding.

Nebeker fails to teach a nonwoven material added to the foam as well as an inner moisture layer. Ogden is drawn to footwear insoles with a moisture absorbent inner layer. Ogden teaches a multilayered structure comprising a second moisture-

wicking layer and a top apertured layer (Figure 2 and col.3 lines 56-62). Said top apertured layer acts as a moisture transfer layer and would have been obvious to one having ordinary skill in the art at the time of the invention was made to make the first layer of Nebeker apertured, motivated to transfer moisture and attain a well-cushioned material.

Further, Ogden teaches that the foam layer can comprise a nonwoven layer (Figures 2, 4-9 and col.4 lines 15-20). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the foam layer of Nebeker comprise a nonwoven layer, motivated provide dimensional stability, in the invention of Nebeker, as taught by Ogden. Therefore, claims 1-5, 8, 10-11 and 13 are rejected.

3. Claims 6, 9, 11-12, 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nebeker in view of Bryant et al. (US 5,366,801).

Nebeker is silent about the foamed material having reversible thermal enhanced properties. Bryant et al. are drawn to fabrics with reversible enhanced thermal properties and teach a foamed coating applied to a fabric substrate, which can be woven, knitted, or nonwoven. Said coating has phase change properties (Abstract and col.4 lines 11-13). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the foam material of Nebeker contain reversible enhanced thermal properties, motivated protect individuals or machinery from the cold or hot, in the invention of Nebeker, as taught by Bryant et al. Therefore, claims 6, 9, 11-12, 14-16 are rejected.

4. Claims 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nebeker in view of Sessa (US 5,400,526).

Nebeker fails to teach that the composite has been treated with a chemical ionization. Sessa is drawn to footwear soles and teaches a polyurethane foam having an open-cell construction which is formed by adding chemical agents which results in ionization (col.5 lines 59-65). It would have been obvious to one having ordinary skill in the art at the time the invention was made to add chemicals to the foam to undergo ionization, motivated to make the fabric hydrophilic, in the invention of Nebeker. Therefore, claims 17-18 are rejected.

Conclusion

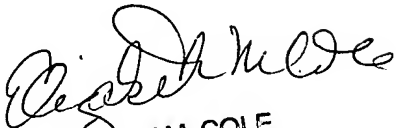
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anna Gofman whose telephone number is (571) 272-7419. The examiner can normally be reached on Mon.-Fri. 8:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Anna Gofman
Examiner
Art Unit 1771

AG


ELIZABETH M. COLE
PRIMARY EXAMINER